

HEALTH AND WELFARE
ADMINISTRATIVE RULES REVIEW
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2007 Legislative Session

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.02 - RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION

DOCKET NO. 16-0202-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-1013A and 56-1017, Idaho Code, and House Bill 858 (2006).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Friday, April 13, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To best protect the public's health and safety, the newly-established EMS Physician Commission is proposing a new chapter of rules to regulate the scope of practice and medical supervision standards for EMS personnel in Idaho.

Currently, there are no scope of practice rules in effect since the rulemaking authority for the previously-existing EMS scope of practice rules was transferred from the Board of Medicine to the EMS Physician Commission by the 2006 Legislature. The Legislature gave the EMS Physician Commission this authority because EMS scope of practice issues have become increasingly complex and require the specialized knowledge and experience of physicians who are specialists in emergency medical care.

Since the old EMS scope of practice rules are no longer in effect, the EMS Physician Commission is establishing new rules to replace them and to comply with the current statutory requirements found in Section 56-1017, Idaho Code.

This new chapter of rules defines the standard operating procedures and practices that can be performed by those certified by the Department as EMS providers. The rules also define the required level of physician supervision for persons certified as EMS providers.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate since it is necessary for the protection of the public health, safety, or welfare.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

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FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There is no impact to the State General Fund as result of this rulemaking.

Revenue from the dedicated “Emergency Medical Services Fund” established in Section 56-1018, Idaho Code, will be utilized to conduct pilot programs and to produce policy and guideline documents related to this rulemaking. These costs are estimated at \$7,500. The EMS Physician Commission is funded entirely by receipts in accordance with Section 56-1013A(6), Idaho Code, that will fund the costs of rulemaking. Idaho licensed EMS agencies may continue to incur costs associated with complying with the rules promulgated by the EMS Physician Commission; these costs are commensurate with the historical costs associated with rulemaking by the Board of Medicine.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the new chapter was developed by the newly-authorized Emergency Medical Services (EMS) Physician Commission. The EMS Physician Commission is itself a representative body of emergency medicine physicians and citizens with EMS experience from across the state. In developing the new chapter, the Commission had access to public input that was provided when the rule was going to be rewritten under the Idaho Board of Medicine.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dia Gainor at (208) 334-4000.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before April 27, 2007.

DATED this 15th day of November, 2006.

Sherri Kovach
Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

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DEPARTMENT OF HEALTH AND WELFARE
Emergency Medical Services Physician Commission

Docket No. 16-0202-0701
TEMPORARY RULE

IDAPA 16
TITLE 02
CHAPTER 02

16.02.02 - RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES (EMS)
PHYSICIAN COMMISSION

000. LEGAL AUTHORITY.

Under Sections 56-1013A and 56-1017, Idaho Code, the Idaho Emergency Medical Services (EMS) Physician Commission is authorized to promulgate these rules for the purpose of establishing standards for scope of practice and medical supervision for certified personnel, ambulance services, and non-transport agencies licensed by the Department of Health and Welfare. (2-1-07)T

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (2-1-07)T

02. Scope. The scope of these rules is to define the allowable scope of practice, acts, and duties that can be performed by persons certified as emergency medical services personnel by the Department of Health and Welfare Emergency Medical Services (EMS) Bureau and to define the required level of supervision by a physician. (2-1-07)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (2-1-07)T

003. ADMINISTRATIVE APPEALS AND INVESTIGATIONS.

01. Administrative Appeals. Provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," govern administrative appeals. (2-1-07)T

02. Physician Complaint Investigations. The provisions of IDAPA 22.01.04, "Rules Relating to Complaint Investigation," govern investigation of complaints regarding physicians. (2-1-07)T

03. EMS Personnel and EMS Agency Complaint Investigations. The provisions of IDAPA 16.02.03, "Rules Governing Emergency Medical Services," govern investigation of complaints regarding certified EMS personnel and EMS Agencies. (2-1-07)T

004. INCORPORATION BY REFERENCE.

The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2007-1, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained from the EMS Bureau located at 590 W. Washington Street, Boise, Idaho, 83702, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. (2-1-07)T

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005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS - TELEPHONE -- WEBSITE.

The Idaho Emergency Medical Services (EMS) Physician Commission is administered by the EMS Bureau central office located in Boise Idaho. (2-1-07)T

01. Office Hours. Office hours of the Idaho Department of Health and Welfare, and the EMS Bureau are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (2-1-07)T

02. Mailing Address. (2-1-07)T

a. The mailing address for the business office is: EMS Bureau, P.O. Box 83720, Boise, Idaho 83720-0036. (2-1-07)T

b. The mailing address for the Idaho EMS Physician Commission, unless otherwise indicated, is: Idaho EMS Physician Commission, P.O. Box 83720, Boise, Idaho 83720-0036. (2-1-07)T

03. Street Address. (2-1-07)T

a. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (2-1-07)T

b. The central office of the Idaho EMS Bureau is located at 590 West Washington Street, Boise, Idaho 83702. (2-1-07)T

04. Telephone and Facsimile. (2-1-07)T

a. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (2-1-07)T

b. The telephone number for the Idaho EMS Physician Commission and the Idaho EMS Bureau is (208) 334-4000. (2-1-07)T

c. The fax number for the Idaho EMS Physician Commission and the Idaho EMS Bureau is (208) 334-4015. (2-1-07)T

05. Internet Website. (2-1-07)T

a. The Department's internet website is found at: "http://www.healthandwelfare.idaho.gov." (2-1-07)T

b. The Idaho EMS Physician Commission and the Idaho EMS Bureau website is found at: "http://www.idahoems.org." (2-1-07)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

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01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (2-1-07)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (2-1-07)T

03. EMS Complaints. The provisions of IDAPA 16.02.03, "Rules Governing Emergency Medical Services," govern the confidentiality of the investigation of complaints regarding certified EMS personnel. (2-1-07)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

In addition to the applicable definitions in Section 56-1012, Idaho Code, and IDAPA 16.02.03, "Rules Governing Emergency Medical Services," the following terms are used in this chapter as defined below: (2-1-07)T

01. Certification. A license issued by the EMS Bureau to an individual for a specified period of time indicating that minimum standards corresponding to one (1) of several levels of EMS proficiency have been met. (2-1-07)T

02. Certified EMS Personnel. Individuals who possess a valid certification issued by the EMS Bureau. (2-1-07)T

03. Credentialed EMS Personnel. Individuals who are authorized to provide medical care by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (2-1-07)T

04. Credentialing. The local process by which certified EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. (2-1-07)T

05. Designated Clinician. A licensed Physician Assistant (PA) or Nurse Practitioner designated by the EMS medical director, hospital supervising physician, or medical clinic supervising physician who is responsible for direct (on-line) medical supervision of certified EMS personnel in the temporary absence of the EMS medical director. (2-1-07)T

06. Direct (On-Line) Supervision. Contemporaneous instructions and directives about a specific patient encounter provided by a physician or designated clinician to certified EMS personnel who are providing medical care. (2-1-07)T

07. Emergency Medical Services (EMS). The services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (2-1-07)T

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08. Emergency Medical Services (EMS) Bureau. The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. (2-1-07)T

09. Emergency Medical Services (EMS) Physician Commission. The Idaho Emergency Medical Services Physician Commission as created under Section 56-1013A, Idaho Code, hereafter referred to as “the Commission.” (2-1-07)T

10. EMS Agency. An organization licensed by the EMS Bureau to provide emergency medical services in Idaho. (2-1-07)T

11. EMS Medical Director. A physician who supervises the medical activities of certified personnel affiliated with an EMS agency. (2-1-07)T

12. Hospital. A facility in Idaho licensed under Sections 39-1301 through 39-1314, Idaho Code, and defined in Section 39-1301(a)(1), Idaho Code. (2-1-07)T

13. Hospital Supervising Physician. A physician who supervises the medical activities of certified EMS personnel while employed or utilized for delivery of services in a hospital. (2-1-07)T

14. Indirect (Off-Line) Supervision. The medical supervision, provided by a physician, to certified EMS personnel who are providing medical care including EMS system design, education, quality management, patient care guidelines, medical policies, and compliance. (2-1-07)T

15. Medical Clinic. A place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical, and emergency care of acute and chronic conditions or injury. (2-1-07)T

16. Medical Clinic Supervising Physician. A physician who supervises the medical activities of certified EMS personnel while employed or utilized for delivery of services in a medical clinic. (2-1-07)T

17. Medical Supervision. The advice and direction provided by a physician, or under the direction of a physician, to certified EMS personnel who are providing medical care, including direct and indirect supervision. (2-1-07)T

18. Medical Supervision Plan. The written document describing the provisions for medical supervision of certified EMS personnel. (2-1-07)T

19. Nurse Practitioner. An Advanced Practice Professional Nurse, licensed in the category of Nurse Practitioner, as defined in IDAPA 23.01.01, “Rules of the Idaho Board of Nursing.” (2-1-07)T

20. Out-of-hospital. Any setting outside of a hospital, including inter-facility transfers, in which the provision of emergency medical services may take place. (2-1-07)T

21. Physician. A person who holds a current active license issued by the Board of

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Medicine to practice medicine and surgery or osteopathic medicine or surgery in Idaho and is in good standing with no restriction upon, or actions taken against, his license. (2-1-07)T

22. Physician Assistant. A person who meets all the applicable requirements to practice as a licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, “Rules for the Licensure of Physician Assistants.” (2-1-07)T

011. -- 094. (RESERVED).

095. GENERAL PROVISIONS.

01. Practice of Medicine. This chapter does not authorize the practice of medicine or any of its branches by a person not licensed to do so by the Board of Medicine. (2-1-07)T

02. Patient Consent. The provision or refusal of consent for individuals receiving emergency medical services is governed by Title 39, Chapter 43, Idaho Code. (2-1-07)T

03. System Consistency. All EMS medical directors, hospital supervising physicians, and medical clinic supervising physicians must collaborate to ensure EMS agencies and certified EMS personnel have protocols, policies, standards of care, and procedures that are consistent and compatible with one another. (2-1-07)T

096. -- 099. (RESERVED).

100. GENERAL DUTIES OF EMS PERSONNEL.

01. General Duties. General duties of EMS personnel include the following: (2-1-07)T

a. Certified EMS personnel must possess valid certification issued by the EMS Bureau equivalent to or higher than the scope of practice authorized by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (2-1-07)T

b. Certified EMS personnel must not provide patient care beyond the scope of practice as defined by the Commission. (2-1-07)T

c. Certified EMS personnel must only provide patient care for which they have been trained, based on curricula or specialized training approved according to IDAPA 16.02.03, “Rules Governing Emergency Medical Services.” (2-1-07)T

d. Certified EMS personnel must not perform a task or tasks within their scope of practice that have been specifically prohibited by their EMS medical director, hospital supervising physician, or medical clinic supervising physician. (2-1-07)T

e. Certified EMS personnel that possess a valid credential issued by the EMS medical director, hospital supervising physician, or medical clinic supervising physician are authorized to provide services when representing an Idaho EMS agency, hospital, or medical clinic and under any one (1) of the following conditions: (2-1-07)T

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i. When part of a documented, planned deployment of personnel resources approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician; or (2-1-07)T

ii. When, in a manner approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, administering first aid or emergency medical attention in accordance with Section 5-330 or 5-331, Idaho Code, without expectation of remuneration; or (2-1-07)T

iii. When participating in a training program approved by the EMS Bureau, the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (2-1-07)T

02. Scope of Practice. (2-1-07)T

a. The Commission maintains an “EMS Physician Commission Standards Manual” that: (2-1-07)T

i. Establishes the scope of practice of certified EMS personnel; and (2-1-07)T

ii. Specifies the type and degree of medical supervision for specific skills, treatments, and procedures by level of EMS certification. (2-1-07)T

b. The Commission will consider the United States Department of Transportation's National EMS Scope of Practice Model when preparing or revising the standards manual described in Subsection 100.02.a. of this rule; (2-1-07)T

c. The scope of practice established by the EMS Physician Commission determines the objectives of applicable curricula and specialized education of certified EMS personnel. (2-1-07)T

d. The scope of practice does not define a standard of care, nor does it define what should be done in a given situation; (2-1-07)T

e. Certified EMS personnel must not provide emergency medical services that exceed the scope of practice established by the Commission; (2-1-07)T

f. Certified EMS personnel must be credentialed by the EMS medical director, hospital supervising physician, or medical clinic supervising physician to be authorized for their scope of practice; (2-1-07)T

g. The credentialing of certified EMS personnel affiliated with an EMS agency, in accordance with IDAPA 16.02.03, “Rules Governing Emergency Medical Services,” must not exceed the licensure level of that EMS agency; and (2-1-07)T

h. The patient care provided by certified EMS personnel must conform to the Medical Supervision Plan as authorized by the EMS medical director, hospital supervising

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physician, or medical clinic supervising physician. (2-1-07)T

101. -- 199. (RESERVED).

200. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN QUALIFICATIONS.

The EMS Medical Director, Hospital Supervising Physician, and Medical Clinic Supervising Physician must: (2-1-07)T

01. Accept Responsibility. Accept responsibility for the medical direction and medical supervision of the activities provided by certified EMS personnel. (2-1-07)T

02. Maintain Knowledge of EMS Systems. Obtain and maintain knowledge of the contemporary design and operation of EMS systems. (2-1-07)T

03. Maintain Knowledge of Idaho EMS. Obtain and maintain knowledge of Idaho EMS laws, regulations, and standards manuals. (2-1-07)T

201. -- 299. (Reserved).

300. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN RESPONSIBILITIES AND AUTHORITY.

01. Documentation of Written Agreement. The EMS medical director must document a written agreement with the EMS agency to supervise certified EMS personnel and provide such documentation to the EMS Bureau annually or upon request. (2-1-07)T

02. Approval for EMS Personnel to Function. (2-1-07)T.

a. The explicit approval of the EMS medical director, hospital supervising physician, or medical clinic supervising physician is required for certified EMS personnel under his supervision to provide medical care. (2-1-07)T

b. The EMS medical director, hospital supervising physician, or medical clinic supervising physician may credential certified EMS personnel under his supervision with a limited scope of practice relative to that allowed by the EMS Physician Commission. (2-1-07)T

03. Restriction or Withdrawal of Approval for EMS Personnel to Function. (2-1-07)T

a. The EMS medical director, hospital supervising physician, or medical clinic supervising physician can restrict the scope of practice of certified EMS personnel under his supervision when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, or the Idaho EMS Bureau. (2-1-07)T

b. The EMS medical director, hospital supervising physician, or medical clinic

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supervising physician can withdraw approval of certified EMS personnel to provide services, under his supervision, when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, or the EMS Bureau. (2-1-07)T

c. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must report in writing such restriction or withdrawal of approval within fifteen (15) days of the action to the EMS Bureau in accordance with Section 39-1393, Idaho Code. (2-1-07)T

04. Review Qualifications of EMS Personnel. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document the review of the qualification, proficiencies, and all other EMS agency, hospital, and medical clinic affiliations of EMS personnel prior to credentialing the individual. (2-1-07)T

05. Document EMS Personnel Proficiencies. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document that the capabilities of certified EMS personnel are maintained on an ongoing basis through education, skill proficiencies, and competency assessment. (2-1-07)T

06. Develop and Implement a Performance Assessment and Improvement Program. The EMS medical director must develop and implement a program for continuous assessment and improvement of services provided by certified EMS personnel under their supervision. (2-1-07)T

07. Review and Update Procedures. The EMS medical director must review and update protocols, policies, and procedures at least every two (2) years. (2-1-07)T

08. Develop and Implement Plan for Medical Supervision. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must develop, implement and oversee a plan for supervision of certified EMS personnel as described in Subsection 400.06 of these rules. (2-1-07)T

09. Access to Records. The EMS medical director must have access to all relevant agency, hospital, or medical clinic records as permitted or required by statute to ensure responsible medical supervision of certified EMS personnel. (2-1-07)T

301. -- 399. (RESERVED).

400. PHYSICIAN SUPERVISION IN THE OUT-OF-HOSPITAL SETTING.

01. Medical Supervision Required. In accordance with Section 56-1011, Idaho Code, certified EMS personnel must provide emergency medical services under the supervision of a designated EMS medical director. (2-1-07)T

02. Designation of EMS Medical Director. The EMS agency must designate a physician for the medical supervision of certified EMS personnel affiliated with the EMS agency. (2-1-07)T

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03. Delegated Medical Supervision of EMS Personnel. The EMS medical director can designate other physicians to supervise the certified EMS personnel in the temporary absence of the EMS medical director. (2-1-07)T

04. Direct Medical Supervision by Physician Assistants and Nurse Practitioners. The EMS medical director can designate Physician Assistants (PA) and Nurse Practitioners for purposes of direct medical supervision of certified EMS personnel under the following conditions: (2-1-07)T

a. A designated physician is not present in the anticipated receiving health care facility; and (2-1-07)T

b. The Nurse Practitioner, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the Nurse Practitioner; or (2-1-07)T

c. The physician supervising the PA, as defined in IDAPA 22.01.04, "Rules Relating to Complaint Investigation," authorizes the PA to provide direct (on-line) supervision; and (2-1-07)T

d. The PA, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the PA related to supervision of EMS personnel. (2-1-07)T

e. Such designated clinician must possess and be familiar with the medical supervision plan, protocols, standing orders, and standard operating procedures authorized by the EMS medical director. (2-1-07)T

05. Indirect Medical Supervision by Non-Physicians. Non-physicians can assist the EMS medical director with indirect medical supervision of certified EMS personnel. (2-1-07)T

06. Medical Supervision Plan. The medical supervision of certified EMS personnel must be provided in accordance with a documented medical supervision plan that includes direct, indirect, on-scene, educational, and proficiency standards components. The EMS medical director is responsible for developing, implementing, and overseeing the medical supervision plan that must consist of the following elements: (2-1-07)T

a. Certified EMS personnel credentialing that includes all of the following: (2-1-07)T

i. EMS Bureau certification; (2-1-07)T

ii. Affiliation to the EMS agency; (2-1-07)T

iii. An EMS agency orientation as prescribed by the EMS agency that includes: (2-1-07)T

(1) EMS agency policies; (2-1-07)T

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- (2) EMS agency procedures; (2-1-07)T
- (3) Medical treatment protocols; (2-1-07)T
- (4) Radio communications procedures; (2-1-07)T
- (5) Hospital/facility destination policies; (2-1-07)T
- (6) Other unique system features; and (2-1-07)T
- iv. Successful completion of an EMS agency evaluation. (2-1-07)T
- b.** Indirect (off-line) supervision that includes all of the following: (2-1-07)T
 - i. Written standing orders and treatment protocols including direct (online) supervision criteria; (2-1-07)T
 - ii. Initial and continuing education in addition to those required by the EMS Bureau; (2-1-07)T
 - iii. Methods of assessment and improvement; (2-1-07)T
 - iv. Periodic assessment of psychomotor skill proficiency; (2-1-07)T
 - v. Provisions for medical supervision of and defining the patient care provided by certified EMS personnel who are present for a multiple or mass causality incident, disaster response, or other significant event involving response of certified EMS personnel; (2-1-07)T
 - vi. Defining the response when certified EMS personnel discover a need for EMS while not on duty; (2-1-07)T
 - vii. The credentialing of certified EMS personnel for emergency response; (2-1-07)T
 - viii. The appropriate level of emergency response based upon dispatch information provided by the designated Public Safety Answering Point(s); (2-1-07)T
 - ix. Triage, treatment, and transport guidelines; (2-1-07)T
 - x. Scene management for multiple EMS agencies anticipated to be on scene concurrently; (2-1-07)T
 - xi. Criteria for determination of patient destination; (2-1-07)T
 - xii. Criteria for utilization of air medical services in accordance with IDAPA 16.02.03, "Rules Governing Emergency Medical Services," Section 415; (2-1-07)T
 - xiii. Policies and protocols for patient refusal, "treat and release," advanced directives

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by patients and physicians, determination of death and other predictable patient non-transport scenarios; (2-1-07)T

xiv. Criteria for cancellation or modification of EMS response; (2-1-07)T

xv. Equipment authorized for patient care; (2-1-07)T

xvi. Medical communications guidelines; and (2-1-07)T

xvii. Methods and elements of documentation of services provided by certified EMS personnel. (2-1-07)T

c. Direct (on-line) supervision: (2-1-07)T

i. Is accomplished by concurrent communication with the EMS medical director, other physicians designated by the EMS medical director, or designated clinicians who must be available twenty-four (24) hours a day seven (7) days a week. (2-1-07)T

ii. The EMS medical director will develop and implement procedures in the event of on-scene supervision by: (2-1-07)T

(1) The EMS medical director or other physician(s) designated by the EMS medical director; (2-1-07)T

(2) A physician with a pre-existing relationship with the patient; and (2-1-07)T

(3) A physician with no pre-existing relationship with the patient who is present for the duration of treatment on scene or transportation. (2-1-07)T

iii. Direct supervision of certified EMS personnel by other persons is prohibited except in the manner described in the medical supervision plan. (2-1-07)T

d. The EMS medical director in collaboration with the course medical director or course coordinator, will define standards of supervision and training for students of state-approved training programs placed for clinical practice and training. (2-1-07)T

07. Out-of-Hospital Medical Supervision Plan Filed with EMS Bureau. The agency EMS medical director must file the medical supervision plan, including identification of the EMS medical director and any designated clinicians to the EMS Bureau in a form described in the standards manual. (2-1-07)T

a. The agency EMS medical director must inform the EMS Bureau of any changes in designated clinicians or the medical supervision plan within thirty (30) days of the change(s). (2-1-07)T

b. The EMS Bureau must provide the Commission with the medical supervision plans annually and upon request. (2-1-07)T

HEALTH AND WELFARE

DEPARTMENT OF HEALTH AND WELFARE
Emergency Medical Services Physician Commission**Docket No. 16-0202-0701**
TEMPORARY RULE

c. The EMS Bureau must provide the Commission with the identification of EMS Medical directors and designated clinicians annually and upon request. (2-1-07)T

401. -- 499. (RESERVED).

500. PHYSICIAN SUPERVISION IN HOSPITALS AND MEDICAL CLINICS.

01. Medical Supervision Required. In accordance with Section 56-1011, Idaho Code, certified EMS personnel must provide emergency medical services under the supervision of a designated hospital supervising physician or medical clinic supervising physician. (2-1-07)T

02. Level of Certification Identification. The certified EMS personnel employed or utilized for delivery of services within a hospital or medical clinic, when on duty, must at all times visibly display identification specifying their level of EMS certification. (2-1-07)T

03. Credentialing of Certified EMS Personnel in a Hospital or Medical Clinic. The hospital or medical clinic must maintain a current written description of acts and duties authorized by the hospital supervising physician or medical clinic supervising physician for credentialed EMS personnel and submit such descriptions upon request of the Commission or the EMS Bureau. (2-1-07)T

04. Notification of Employment or Utilization. The certified EMS personnel employed or utilized for delivery of services within a hospital or medical clinic must report such employment or utilization to the EMS Bureau within thirty (30) days of engaging such activity. (2-1-07)T

05. Designation of Supervising Physician. The hospital or medical clinic administration must designate a physician for the medical supervision of certified EMS personnel employed or utilized in the hospital or medical clinic. (2-1-07)T

06. Delegated Medical Supervision of EMS Personnel. The hospital supervising physician or medical clinic supervising physician can designate other physicians to supervise the certified EMS personnel during the periodic absence of the hospital supervising physician or medical clinic supervising physician. (2-1-07)T

07. Direct Medical Supervision by Physician Assistants and Nurse Practitioners. The hospital supervising physician, or medical clinic supervising physician can designate Physician Assistants (PA) and Nurse Practitioners for purposes of direct medical supervision of certified EMS personnel under the following conditions: (2-1-07)T

a. The Nurse Practitioner, when designated, must have a preexisting written agreement with the hospital supervising physician or medical clinic supervising physician describing the role and responsibilities of the Nurse Practitioner; or (2-1-07)T

b. The physician supervising the PA, as defined in IDAPA 22.01.04, "Rules Relating to Complaint Investigation," authorizes the PA to provide supervision; and (2-1-07)T

c. The PA, when designated, must have a preexisting written agreement with the

HEALTH AND WELFARE

hospital supervising physician or medical clinic supervising physician describing the role and responsibilities of the PA related to supervision of EMS personnel. (2-1-07)T

d. Such designated clinician must possess and be familiar with the medical supervision plan, protocols, standing orders, and standard operating procedures authorized by the hospital supervising physician or medical clinic supervising physician. (2-1-07)T

08. On-Site Contemporaneous Supervision. Certified EMS personnel will only provide patient care with on-site contemporaneous supervision by the hospital supervising physician, medical clinic supervising physician, or designated clinicians. (2-1-07)T

09. Medical Supervision Plan. The medical supervision of certified EMS personnel must be provided in accordance with a documented medical supervision plan. The hospital supervising physician or medical clinic supervising physician is responsible for developing, implementing, and overseeing the medical supervision plan. (2-1-07)T

501. -- 999. (RESERVED).

HEALTH AND WELFARE

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND, AND DISABLED (AABD)

DOCKET NO. 16-0305-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202, Idaho Code and federal Deficient Reduction Act of 2005, P.L. 109-171.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

| | | |
|---------------|--|--|
| Date: | Monday, January 15, 2007 | Tuesday, January 16, 2007 |
| Time: | 7:00 p.m. | 7:00 p.m. |
| Place: | DHW - Region IV Office Suite D, Room 119 1720 Westgate Dr., Boise, ID | State Office Building 3rd Floor Conference Room 1118 "F" Street, Lewiston, ID |

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is a result of the federal Deficient Reduction Act (DRA) of 2005 and encourages the purchase of long-term care insurance for Idahoans to manage the payment of long-term care first, instead of Medicaid. This rule provides incentive to individuals who purchase a Qualified Long-Term Care Partnership Policy by allowing a disregard of assets or resources in an amount equal to the insurance benefit payments paid for the beneficiary once the policy holder has exhausted their long-term care benefits. The dollar amount paid by the policy for their care is also exempt from the recovery of medical assistance received by the participant (Estate Recovery). This will alleviate the financial burden on Idaho's medical assistance program by encouraging the pursuit of private insurance. After November 1, 2006, individuals will not be eligible for Medicaid to meet their long-term care needs until the policy holder has exhausted the long-term care benefits provided by their Qualified LTC Partnership Policy.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is being done to meet federal regulations time lines and confer a benefit.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

HEALTH AND WELFARE

DEPARTMENT OF HEALTH AND WELFARE
Eligibility for Aid to the Aged, Blind & Disabled (AABD)

Docket No. 16-0305-0701
TEMPORARY RULE

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes to rule are being made to meet federal regulation time lines.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Peggy Cook at (208) 334-5969.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 24, 2007.

DATED this 3rd day of November, 2006.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

710. -- ~~720~~19. (RESERVED).

~~720~~720. LONG-TERM CARE RESIDENT AND MEDICAID.

A resident of a long-term care facility must meet the AABD eligibility criteria to be eligible for Medicaid. A long-term care facility is a nursing facility, or an intermediate care facility for the mentally retarded. The need for long-term care is determined using IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (10-1-06)T

01. Resources of Resident. The resident's resource limit is two thousand dollars (\$2,000). Resources of a married person in long-term care are computed using Federal Spousal Impoverishment rules. Under the SSI method, spouses can use the three thousand dollar (\$3,000) couple resource limit if more advantageous. The couple must have lived in the nursing home, in the same room, for six (6) months. (3-20-04)

02. Medicaid Income Limit of Long-Term Care Resident Thirty Days or More. The monthly income limit for a long-term care facility resident is three (3) times the Federal SSI benefit for a single person. To qualify for this income limit the participant must be, or be likely to remain, in long-term care at least thirty (30) consecutive days. (3-20-04)

03. Medicaid Income Limit of Long-Term Care Resident Less Than Thirty Days.

HEALTH AND WELFARE

DEPARTMENT OF HEALTH AND WELFARE
Eligibility for Aid to the Aged, Blind & Disabled (AABD)**Docket No. 16-0305-0701**
TEMPORARY RULE

The monthly income limit, for the resident of a long-term care facility for less than thirty (30) consecutive days, is the AABD income limit for the participant's living situation before long-term care. Living situations before long-term care do not include hospital stays. (7-1-99)

04. Income Not Counted. The income listed in Subsections 72~~40~~.04.a. through 72~~40~~.04.e. of these rules is not counted to compute Medicaid eligibility for a long-term care facility resident. This income is counted in determining participation in the cost of long-term care. ~~(3-20-04)~~(11-1-06)T

a. Income excluded or disregarded, in determining eligibility for AABD cash, is not counted. (3-20-04)

b. The September 1972 RSDI increase is not counted. (3-20-04)

c. Any VA Aid and Attendance allowance, including any increment which is the result of a VA Unusual Medical Expense allowance, is not counted. These allowances are not counted for patient liability, unless the veteran lives in a state operated veterans' home. (3-20-04)

d. RSDI benefit increases, from cost-of-living adjustments (COLA) after April 1977, are not counted if they made the participant lose SSI or AABD cash. The COLA increases after SSI or AABD cash stopped are not counted. (3-20-04)

e. Income paid into an income trust exempt from counting for Medicaid eligibility under Subsection 872.02 of these rules is used for patient liability. Income paid to the trust and not used for patient liability, is subject to the asset transfer penalty. (3-20-04)

721. QUALIFIED LONG-TERM CARE PARTNERSHIP POLICY.

Benefits from a Qualified Long-Term Care Partnership policy issued in Idaho after November 1, 2006, must be exhausted before a person can be eligible for Medicaid for long-term care.

(11-1-06)T

01. Value of the Participant's Assets. The dollar amount of the benefits paid out for a policy holder of a Qualified Long-Term Care Partnership policy is disregarded in calculating the value of the participant's assets. (11-1-06)T

02. Asset Disregard Excluded From Estate Recovery. The amount of the asset disregard from a Qualified Long-Term Care Partnership policy is excluded from estate recovery for Medicaid services paid for the participant. (11-1-06)T

03. Exhaustion of a Long-Term Care Partnership Policy. A Long-Term Care Partnership policy is exhausted when the policy pays the maximum of the policy limits for the participant's long-term care. (11-1-06)T

HEALTH AND WELFARE

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-257, Idaho Code; also House Bill 663aa (2006), and the federal Deficit Reduction Act of 2005; P.L. 109-171.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

| | | |
|--|---|--|
| Date: Thursday, January 11, 2007 | Tuesday, January 16, 2007 | Tuesday, January 23, 2007 |
| Time: 7:00 p.m. | 5:30 p.m. | 7:00 p.m. |
| Place: DHW - Region I Office 1120 Ironwood Drive Suite 102 Coeur d'Alene, ID | DHW - Region IV Office 1720 Westgate Dr. Suite D, Room 119 Boise, ID | Idaho Falls Public Library 457 Broadway Library Conference Room Idaho Falls, ID |

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department is establishing cost-sharing measures for Medicaid participants in order to comply with House Bill 663 passed by the 2006 Legislature. The purpose of the statute and of this rule change is two-fold:

1. To increase awareness and responsibility of Medicaid participants regarding the cost of their health care, and
2. To encourage them to use cost-effective care in the most appropriate setting.

To accomplish this purpose, the new cost-sharing measures can require participants to pay for part of the cost of Medicaid services, in the form of a co-payment, when they have accessed those services inefficiently or inappropriately. A reference to IDAPA 16.03.18, "Medicaid Cost-Sharing," is also being added. Companion rule changes in that chapter describe the actual amounts of each co-payment (see Docket No. 16-0318-0701).

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is needed to comply with deadlines in amendments to governing law or federal programs (see House Bill 663aa, 2006).

HEALTH AND WELFARE

DEPARTMENT OF HEALTH AND WELFARE
Medicaid Basic Plan Benefits**Docket No. 16-0309-0701**
TEMPORARY RULE

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The implementation of co-payments by participants is cost-neutral to the Medicaid budget:

1. Co-payments are paid by the participant to the provider, not to the Medicaid program; and
2. Co-payments are permissive (i.e., providers may, but are not required, to charge the co-payment) and there is no reduction in provider payment by Medicaid when a participant pays the co-payment.

Future savings may be realized as participants make better choices and reduce inappropriate use of services.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes to rule are being made to implement legislation passed during the 2006 legislative session.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Patti Campbell at (208) 287-1158.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, January 24, 2007.

DATED this 14th day of November, 2006.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

151. -- 1959. (RESERVED).

160. RESPONSIBILITY FOR KEEPING APPOINTMENTS.

HEALTH AND WELFARE

DEPARTMENT OF HEALTH AND WELFARE Medicaid Basic Plan Benefits

Docket No. 16-0309-0701
TEMPORARY RULE

The participant is solely responsible for making and keeping an appointment with the provider. If a participant makes an appointment and subsequently does not keep it, the participant may be required to pay the provider an amount established by the provider's missed appointment policy that is applicable to all patients of the provider. (2-1-07)T

161. -- 164. (RESERVED).

165. COST-SHARING.

01. Co-Payments. When a participant accesses certain services inappropriately, the provider can require the participant to pay a co-payment as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (2-1-07)T

02. Premiums. A participant can be required to share in the cost of basic plan benefits in the form of a premium as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (10-1-06)T

166. -- 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

412. OUTPATIENT HOSPITAL SERVICES - COVERAGE AND LIMITATIONS.

01. Services Provided On-Site. Outpatient hospital services must be provided on-site. (7-1-06)T

02. Exceptions and Limitations. (7-1-06)T

a. Payment for emergency room service is limited to six (6) visits per calendar year. (7-1-06)T

b. Emergency room services which are followed immediately by admission to inpatient status will be excluded from the six (6) visit limit. (7-1-06)T

03. Co-Payments. (2-1-07)T

a. When an emergency room physician conducts a medical screening and determines that an emergency condition does not exist, the hospital can require the participant to pay a co-payment as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (2-1-07)T

b. A hospital may refuse to provide services to a participant when a medical screening has determined that an emergency condition does not exist and the participant does not make the required co-payment at the time of service. Under these circumstances, the hospital must provide notification to the participant as specified in Section 1916A(e) of the Social Security Act. (2-1-07)T

HEALTH AND WELFARE

(BREAK IN CONTINUITY OF SECTIONS)

862. EMERGENCY TRANSPORTATION SERVICES - COVERAGE AND LIMITATIONS.

01. Prior Authorization. Medically necessary ambulance services are reimbursable in emergency situations or when prior authorization has been obtained from the Department. (7-1-06)T

02. Local Transport Only. Only local transportation by ambulance is covered. In exceptional situations where the ambulance transportation originates beyond the locality to which the participant was transported, payment may be made for such services only if the evidence clearly establishes that such institution is the nearest one with appropriate facilities and the service is authorized by the Department. (7-1-06)T

03. Air Ambulance Service. In some areas, transportation by airplane or helicopter may qualify as ambulance services. Air ambulance services are covered only when: (7-1-06)T

a. The point of pickup is inaccessible by land vehicle; or (7-1-06)T

b. Great distances or other obstacles are involved in getting the participant to the nearest appropriate facility and speedy admission is essential; and (7-1-06)T

c. Air ambulance service will be covered where the participant's condition and other circumstances necessitate the use of this type of transportation; however, where land ambulance service will suffice, payment will be based on the amount payable for land ambulance, or the lowest cost. (7-1-06)T

04. Co-Payments. When the Department determines that the participant did not require emergency transportation, the provider can bill the participant for the co-payment amount as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (2-1-07)T

HEALTH AND WELFARE

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.18 - MEDICAID COST-SHARING

DOCKET NO. 16-0318-0701 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-239 and 56-240, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

| | | | |
|---------------|--|---|---|
| Date: | Thursday, January 11, 2007 | Tuesday, January 16, 2007 | Tuesday, January 23, 2007 |
| Time: | 7:00 p.m. | 5:30 p.m. | 7:00 p.m. |
| Place: | DHW - Region I Office 1120 Ironwood Drive Suite 102 Coeur d'Alene, ID | DHW - Region IV Office 1720 Westgate Dr. Suite D, Room 119 Boise, ID | Idaho Falls Public Library 457 Broadway Library Conference Room Idaho Falls, Idaho |

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department is establishing cost-sharing measures for Medicaid participants to comply with HB 663 passed by the 2006 Legislature. The purpose of this rule change is to increase awareness and responsibility of Medicaid participants regarding the cost of their health care, and encourage them to use the most appropriate cost-effective care setting.

These new cost-sharing measures require participants to pay for part of the cost of Medicaid services, in the form of a co-payment to providers, when they have accessed certain services inefficiently or inappropriately. These rules provide the amount a participant must pay for the inappropriate use of services and references the type of services found in the Medicaid Basic Plan Benefits chapter that these fees will apply to.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is being done to comply with deadlines in amendments to governing law.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The nominal fee amount allowed for by federal law for the inappropriate use of services is set at three dollars (\$3) beginning February 1, 2007.

HEALTH AND WELFARE

DEPARTMENT OF HEALTH AND WELFARE
Medicaid Cost-Sharing

Docket No. 16-0318-0701
TEMPORARY FEE RULE

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The implementation of co-payments are cost neutral to the Medicaid budget. Co-payments will be collected and retained by service providers.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes to these rules are being made to implement legislation passed during the 2006 legislative session.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Robin Pewtress at (208) 364-1892.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 24, 2007.

DATED this 14th day of November, 2006.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
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Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

011. -- ~~499049~~. (RESERVED).

050. GENERAL COST-SHARING.

01. Cost-Sharing Maximum Amount. A family will be required to pay out of pocket costs not to exceed five percent (5%) of the family's anticipated gross quarterly income unless an exception is made as provided in Subsection 050.02 of this rule. (2-1-07)T

02. Exception to Cost-Sharing Maximum. A family will be required to pay cost-sharing amounts as provided in Sections 215 and 400 of these rules. These cost-sharing amounts may exceed the family's five percent (5%) of anticipated gross quarterly income. (2-1-07)T

HEALTH AND WELFARE

DEPARTMENT OF HEALTH AND WELFARE Medicaid Cost-Sharing

Docket No. 16-0318-0701
TEMPORARY FEE RULE

03. Proof of Cost-Sharing Payment. A family that has exceeded the five percent (5%) cost-sharing of the family's anticipated gross quarterly income must provide proof to the Department of the amounts incurred.

(2-1-07)T

04. Excess Cost-Sharing. A family that establishes proof of payment for cost-sharing that exceeds the five percent (5%) of the family's anticipated gross quarterly income will be reimbursed by the Department for the amount paid that exceeds the five percent (5%), except as provided in Subsection 050.02 of this rule.

(2-1-07)T

05. Cost-Sharing Suspended. A family that exceeds the five percent (5%) maximum amount for cost-sharing will not be required to pay a cost-sharing portion for any family participant for the remainder of the calendar quarter in which proof of payment is established.

(2-1-07)T

051. - 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

251. -- 9299. (RESERVED).

300. CO-PAYMENTS FOR MEDICAID SERVICES.

Medicaid participants are responsible for making co-payments for the following services under the following circumstances in Subsections 300.01 and 300.02 of this rule.

(2-1-07)T

01. Accessing Hospital Emergency Department for Non-Emergency Medical Conditions. A participant who seeks care at a hospital emergency department for services that do not meet the definition of an emergency medical condition as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," may be required to pay a co-payment to the provider. The amount of the co-payment is provided in Section 310 of these rules. A participant who must access a hospital emergency department in order to receive routine services for his medical condition is exempt from this provision.

(2-1-07)T

02. Accessing Emergency Transportation Services for Non-Emergency Medical Conditions. A participant who accesses emergency transportation services for a condition that is determined by the Department to be a non-emergency medical condition may be required to pay a co-payment to the provider of the service. The amount of the co-payment is provided in Section 310 of these rules. Certain participants are exempt from this co-payment. Exempt participants are:

(2-1-07)T

a. A child under the age of nineteen (19) with family income less than or equal to one hundred and thirty-three percent (133%) of the current federal poverty guidelines (FPG);

(2-1-07)T

b. A pregnant or post-partum woman when the medical condition for the needed

HEALTH AND WELFARE

DEPARTMENT OF HEALTH AND WELFARE Medicaid Cost-Sharing

Docket No. 16-0318-0701
TEMPORARY FEE RULE

transportation is related to the pregnancy; (2-1-07)T

c. An inpatient in a hospital, nursing facility, intermediate care facility for persons with mental retardation (ICF/MR) or other medical institution, who is required to pay all but a nominal amount of his income to the institution for his care; (2-1-07)T

d. A Medicare beneficiary, whose Medicaid benefits consist of assistance with his Medicare cost-sharing obligations; (2-1-07)T

e. A participant receiving hospice care; (2-1-07)T

f. A child in foster care receiving aid or assistance under the Social Security Act (SSA), Title IV, Part B; (2-1-07)T

g. A participant receiving adoption or foster care assistance under the Social Security Act (SSA), Title IV, Part E, regardless of age; and (2-1-07)T

h. A woman eligible under the breast and cervical cancer eligibility group. (2-1-07)T

301. -- 309. (RESERVED).

310. CO-PAYMENT FEE AMOUNTS.

01. Nominal Amount. The amount of the co-payment must be a nominal amount as provided in 42 CFR 447.54. This nominal amount is set by the U.S. Department of Health and Human Services. (2-1-07)T

02. Fee Amount. Beginning on February 1, 2007, the nominal fee amount required to be paid by the participant as a co-payment is three dollars (\$3). This co-payment amount will be adjusted annually as determined by the Secretary of Human Services. (2-1-07)T

03. Annual Increase. The nominal fee amount will be increased annually by an adjusted percentage rate determined by the Secretary of Health and Human Services as set in the Social Security Act Section 1916. (2-1-07)T

311. -- 999. (RESERVED).

HEALTH AND WELFARE

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - RULES GOVERNING MANDATORY CRIMINAL HISTORY CHECKS

DOCKET NO. 16-0506-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **January 1, 2007**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(b), 56-204A, 56-1004(A), 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-1213, 39-3520, and 39-5604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Legislature has given the Department the responsibility to protect children and vulnerable adults who are at risk of being harmed by individuals who have criminal convictions, offenses, or have substantiated abuse or neglect cases against them. In order to meet this responsibility, the Department needs to revise and update its rules. This chapter of rules is being repealed and rewritten in Docket 16-506-0602 to meet those requirements and to comply with SB 1327 passed by the 2006 Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To protect the public health, safety and welfare of the vulnerable adults and children in Idaho.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Criminal history checks cost the applicant a fee that under statute is required to be paid by the applicant.

The fee amount is being published in the rewrite of this chapter, under Docket 16-0506-0602 published in this bulletin. The 2006 Legislature enacted Section 56-1004A, Idaho Code, that requires an applicant to be responsible for the cost of a criminal history and background check. This temporary fee rule will define the actual cost and require applicants to pay for the criminal history and background checks.

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TEMPORARY RULE

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The Department currently charges \$45.00 which does not cover the Department's costs. The difference is made up by general fund money. The Department has implemented new systems to increase the efficiency of processing background checks which reduces the administrative processing costs, however a study of background checks revealed the Department's current cost per check is \$48.00. It is anticipated this will result in a cost savings of \$22,900 with a general fund savings of \$11,450 for the fiscal year 2007. This fiscal impact for the repeal of the chapter is the same as Docket 16-0506-0602 published in this bulletin.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 7, 2006, Vol. 06-6, page 104.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Mond Warren at (208) 334-5997.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before January 24, 2007.

DATED this 3rd day of November, 2006.

Sherri Kovach
Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16.05.06 IS BEING REPEALED IN ITS ENTIRETY

HEALTH AND WELFARE

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-0602 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **January 1, 2007**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(b), 56-204A, 56-1004(A), 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, and 39-5604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rule making for this rewritten chapter of rules:

The Legislature has given the Department the responsibility to protect children and vulnerable adults who are at risk of being harmed by individuals who have criminal convictions, offenses, or have substantiated abuse or neglect cases against them. In order to meet this responsibility, the Department requires criminal history and background checks for certain types of providers, certification and licensure applicants, and adoptive and foster care homes. This chapter is being rewritten to provide clearer requirements for applicants, employers, contractors, and providers on how the results of these checks may be used and distributed. The list of disqualifying crimes is being amended to add crimes or offenses not currently in the rules and amend the length of time for disqualification for certain crimes. The rules will also address the online application and reporting systems implemented by the Department for processing criminal history and background checks.

The rewritten chapter of rules will:

1. Comply with Idaho law amended in 2006 relating to the costs and fees for criminal history and background checks;
2. Update requirements for new technology that is used to process fingerprints and online applications;
3. Clarify when an individual is able to provide care or services for an employer;
4. Clarify when an applicant for certification and licensure receives a clearance;
5. Amend and add disqualifying crimes, offenses, and the length of time that results in a denial or clearance;
6. Add requirements for the disposition of the criminal history and background check results;

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7. Amend and update the list of individuals required to comply with this chapter of rules; and
8. Remove obsolete language and add requirements to meet the Administrative Procedures Act.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To protect the public health, safety and welfare of the vulnerable adults and children in Idaho.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The 2006 Legislature enacted Section 56-1004A, Idaho Code, that requires an applicant to be responsible for the cost of a criminal history and background check. This temporary fee rule will define the actual cost and require applicants to pay for the criminal history and background checks.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The Department currently charges \$45.00 which does not cover the Department's costs. The difference is made up by general fund money. The Department has implemented new systems to increase the efficiency of processing background checks which reduces the administrative processing costs, however a study of background checks revealed the Department's current cost per check is \$48.00. It is anticipated this will result in a cost savings of \$22,900 with a general fund savings of \$11,450 for the fiscal year 2007.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 7, 2006, Vol. 06-6, page 104.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Mond Warren at (208) 334-5997.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before January 24, 2007.

DATED this 3rd day of November, 2006.

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TEMPORARY RULE

Sherri Kovach, Program Supervisor
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0506-0602

IDAPA 16
TITLE 05
CHAPTER 06

000. LEGAL AUTHORITY.

The Idaho Legislature has authorized the Department of Health and Welfare to promulgate rules to conduct criminal history and background checks under Sections 56-202(b), 56-203(b), 56-204A, 56-1004(A), 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520 and 39-5604, Idaho Code. (1-1-07)T

001. TITLE, SCOPE AND POLICY.

01. Title. The title of this chapter is IDAPA 16.05.06, “Criminal History and Background Checks.” (1-1-07)T

02. Scope. These rules assist the Department in the protection of children and vulnerable adults by providing requirements to conduct criminal history and background checks of individuals licensed or certified by the Department, or who provide care or services to vulnerable adults or children. Individuals requiring a criminal history check are identified in Department rules. (1-1-07)T

03. Policy. It is the Department’s policy to conduct fingerprint-based criminal history and background checks on individuals who have completed a criminal history application. The criminal history applicant is required to disclose any pertinent information of crimes or offenses that would disqualify the individual from providing care or services to vulnerable populations. The Department obtains information for these criminal history and background checks from the following sources: (1-1-07)T

- a.** Federal Bureau of Investigation; (1-1-07)T
- b.** National Crime Information Center; (1-1-07)T
- c.** Idaho State Police Bureau of Criminal Identification; (1-1-07)T

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- d. Idaho Child Protection Central Registry; (1-1-07)T
- e. Idaho Adult Protection Registry; (1-1-07)T
- f. Sexual Offender Registry; (1-1-07)T
- g. Office of Inspector General List of Excluded Individuals and Entities; (1-1-07)T
- h. Idaho Department of Transportation Driving Records; (1-1-07)T
- i. Nurse Aide Registry; (1-1-07)T
- j. Other states and jurisdiction records and findings. (1-1-07)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations associated with this chapter of rules. (1-1-07)T

003. ADMINISTRATIVE APPEALS.

01. Appeals. Appeals and proceedings are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-07)T

02. Appeal of FBI Records. If an individual believes that the records received through the FBI are incorrect, the individual has fifteen (15) days from the receipt of the denial to correct the FBI records according to 28 CFR Section 16.34 or other federal regulations. (1-1-07)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter of rules. (1-1-07)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (1-1-07)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (1-1-07)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (1-1-07)T

04. Telephone. (208) 334-5500. (1-1-07)T

05. Department Internet Website Address. Department Internet address is: <http://www.healthandwelfare.idaho.gov>. (1-1-07)T

06. Criminal History Unit. The Criminal History Unit may be contacted as listed

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below: (1-1-07)T

- a. Address: 3268 Elder Street, Boise, ID 83705; (1-1-07)T
- b. Phone: (208) 332-7990, Toll Free: 1-800-340-1246, FAX: (208) 332-7991; (1-1-07)T
- c. Website: <https://chu.dhw.idaho.gov>. (1-1-07)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-07)T

02. Federal Bureau of Investigation Records. Any information received from the FBI must comply with 28 CFR 50.12 or other federal regulations. (1-1-07)T

03. Idaho State Police Records. Any information received from the Idaho State Police must comply with Section 67-3008, Idaho Code. (1-1-07)T

04. Public Records Requests. The Department of Health and Welfare will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempt, as provided in Section 9-340, Idaho Code, and other state and federal laws and regulations, all public records in the custody of the Department of Health and Welfare are subject to disclosure. (1-1-07)T

007. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

01. Application. An individual's request for a criminal history and background check in which the individual discloses any convictions, pending charges, or child or adult protection findings, and authorizes the Department to obtain information from available databases and sources relating to the individual. (1-1-07)T

02. Clearance. A clearance issued by the Department once the criminal history and background check is completed and no disqualifying crimes or relevant records are found. (1-1-07)T

03. Conviction. An individual is considered to have been convicted of a criminal offense as defined in Subsections 010.03.a. through 010.03.d. of this rule: (1-1-07)T

a. When a judgment of conviction, or an adjudication, has been entered against the individual by any federal, state, military, or local court; (1-1-07)T

b. When there has been a finding of guilt against the individual by any federal, state, military, or local court; (1-1-07)T

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c. When a plea of guilty or nolo contendere by the individual has been accepted by any federal, state, military, or local court; (1-1-07)T

d. When the individual has entered into or participated in first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. This includes: (1-1-07)T

i. When the individual has entered into participation in a drug court; or (1-1-07)T

ii. When the individual has entered into participation in a mental health court. (1-1-07)T

04. Criminal History and Background Check. A criminal history and background check is a fingerprint-based check of an individual's criminal record and other relevant records to determine the suitability of the individual to provide care or services to vulnerable adults or children. (1-1-07)T

05. Criminal History Unit. The Department's Unit responsible for processing fingerprint-based criminal history and background checks, conducting exemption reviews, and issuing clearances or denials according to these rules. (1-1-07)T

06. Denial. A denial is issued by the Department when an individual has a relevant record or disqualifying crime. There are two (2) types of denials: (1-1-07)T

a. Conditional Denial. A denial of an applicant because of a relevant record found in Section 230 of these rules. (1-1-07)T

b. Unconditional Denial. A denial of an applicant because of a conviction for a disqualifying crime found in Section 210 of these rules. (1-1-07)T

07. Department. The Idaho Department of Health and Welfare or its designee. (1-1-07)T

08. Disqualifying Crime. A disqualifying crime is a designated crime listed in Section 210 of these rules that results in the unconditional denial of an applicant. (1-1-07)T

09. Exemption Review. A review by the Department at the request of the applicant when a conditional denial has been issued. (1-1-07)T

10. Federal Bureau of Investigation (FBI). The federal agency where fingerprint-based criminal history and background checks are processed. (1-1-07)T

11. Good Cause. The facts and circumstances that would compel a reasonably prudent person to act in the same or similar manner under the same or similar circumstances. (1-1-07)T

12. Idaho State Police Bureau of Criminal Identification. The state agency where fingerprint-based criminal history and background checks are processed. (1-1-07)T

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13. Relevant Record. A relevant record is a record that is from criminal records or from registries checked by the Department as provided in Section 56-1004A, Idaho Code, that may result in a conditional denial. (1-1-07)T

011. -- 049. (RESERVED).

050. FEES AND COSTS FOR CRIMINAL HISTORY AND BACKGROUND CHECKS. The fee for a Department fingerprint-based criminal history and background check is forty-eight dollars (\$48) for an individual. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. (1-1-07)T

051. -- 059. (RESERVED).

060. EMPLOYER REGISTRATION.

Employers required to have Department criminal history and background checks on their employees, contractors, or staff must register with the Department and receive an employer identification number before criminal history and background check applications can be processed. (1-1-07)T

061. EMPLOYER RESPONSIBILITIES.

The criminal history and background check clearance is not a determination of suitability for employment. The Department's criminal history and background check clearance means that an individual was found to have no disqualifying crime or relevant record. Employers are responsible for determining the individual's suitability for employment as described in Subsections 061.01 through 061.03 of these rules. (1-1-07)T

01. Screen Applicants. The employer should screen applicants prior to initiating a criminal history and background check in determining the suitability of the applicant for employment. If an applicant discloses a disqualifying crime or offense, or discloses other information that would indicate a risk to the health and safety of children and vulnerable adults, a determination of suitability for employment should be made during the initial application screening. (1-1-07)T

02. Ensure Time Frames Are Met. The employer is responsible to ensure that the required time frames are met for completion and submission of the application and fingerprints to the Department as required in Section 150 of these rules. (1-1-07)T

03. Employment Determination. The employer is responsible for reviewing the results of the criminal history and background check if a clearance that resulted in no disqualifying crimes or offenses found is issued by the Department. The employer must then make a determination as to the ability or risk of the individual to provide care or services to children or vulnerable adults. (1-1-07)T

062. -- 069. (RESERVED).

070. NON-COMPLIANCE WITH THESE RULES.

The Department will report an individual's or an employer's non-compliance with these rules to

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the applicable licensing or certification unit.

(1-1-07)T

071. -- 099. (RESERVED).

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or program rules to complete a criminal history and background check.

(1-1-07)T

01. Adoptive Parent Applicants. All persons applying to the Department or petitioning the court to be an adoptive parent and all adults in the home, except stepparents applying for adoption of a stepchild, as described in IDAPA 16.06.01 “Rules Governing Family and Children's Services.”

(1-1-07)T

02. Adult Day Care Providers. Providers of adult day care and all adults in the home, if provided in a private residence as required by IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 009 and 705.

(1-1-07)T

03. Alcohol or Drug Abuse Prevention and Treatment Programs Serving Children. Staff who have contact with adolescents in any alcohol/drug abuse treatment program which provides treatment for persons under the age of eighteen (18) as required by IDAPA 16.06.03, “Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs,” Section 020.

(1-1-07)T

04. Certified Family Homes. Certified family home providers, all adults in the home, and substitute caregivers as required in Section 39-3520, Idaho Code, and IDAPA 16.03.19, “Rules Governing Certified Family Homes,” Sections 009, 101 and 300, and IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 009.

(1-1-07)T

05. Children's Residential Care Facilities. Owners, operators, and employees of all children's residential care facilities as required in Section 39-1210, Idaho Code.

(1-1-07)T

06. Children's Therapeutic Outdoor Programs. Staff, volunteers, and interns working in Children's Therapeutic Outdoor Programs as defined in IDAPA 16.06.02, “Standards for Child Care Licensing,” Section 810.

(1-1-07)T

07. Commercial Non-Emergency Transportation Providers. Staff of commercial non-emergency transportation providers who have contact with participants as required in IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” Section 009.

(1-1-07)T

08. Developmental Disabilities Agencies. Employees of developmental disabilities agencies as required in IDAPA 16.04.11, “Rules Governing Developmental Disabilities Agencies,” Section 009, and IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 009.

(1-1-07)T

09. Emergency Medical Services (EMS). Applicants for EMS certification as required in IDAPA 16.02.03, “Rules Governing Emergency Medical Services,” Section 501.

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(1-1-07)T

10. Licensed Foster Care. All foster care applicants and other adult members of the household as required in Section 39-1211, Idaho Code, and IDAPA 16.06.02, “Standards for Child Care Licensing,” Section 404. (1-1-07)T

11. Licensed Child Care. Applicants, owners, operators, employees, volunteers, and those over twelve (12) years of age who have unsupervised direct contact with the children of day care centers, group day care facilities and family day care homes as required in Section 39-1105, Idaho Code, and IDAPA 16.06.02, “Standards for Child Care Licensing,” Section 300. (1-1-07)T

12. Mental Health Clinics. Mental health clinic’s direct care staff as required in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 009 and IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” Sections 009 and 714. (1-1-07)T

13. Personal Assistance Agencies. Staff of personal assistance agencies acting as fiscal intermediaries as required in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 009. (1-1-07)T

14. Personal Care Service Providers. Providers of personal care services as required in Section 39-5604, Idaho Code, and IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 009. (1-1-07)T

15. Psychosocial Rehabilitation Providers. Individuals providing psychosocial rehabilitation services as required in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 009 and 130. (1-1-07)T

16. Residential Habilitation Providers. Residential habilitation providers as required in IDAPA 16.04.17 “Rules Governing Residential Habilitation Agencies,” Sections 202 and 301, and IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 009 and 705. (1-1-07)T

17. Service Coordinators and Paraprofessional Providers. Service coordinators and paraprofessionals working for an agency as required in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 009. (1-1-07)T

18. Support Brokers and Community Support Workers. Support brokers and community support workers, as required in IDAPA 16.03.13, “Self-Directed Services,” Section 009. (1-1-07)T

19. Long-Term Care Pilot Project Providers. Providers, employees, and contractors of long-term care facilities as required in IDAPA 16.05.05 “Criminal History and Background Checks in Long-Term Care Settings.” The long-term care pilot project expires September 30, 2007. (1-1-07)T

101. DEPARTMENT INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

The following Department employees and contractors are subject to criminal history and background checks. (1-1-07)T

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01. Employees and Contractors. Employees and contractors providing direct care services or who have access to children or vulnerable adults as defined in Section 39-5302(10), Idaho Code. (1-1-07)T

02. Employees of Bureau of Audits and Investigations. (1-1-07)T

a. Fraud Investigators; (1-1-07)T

b. Utilization Review Analysts; and (1-1-07)T

c. Criminal History Staff. (1-1-07)T

03. Employees at State Institutions. All employees of the following state funded institutions; (1-1-07)T

a. Idaho State School and Hospital, Nampa, Idaho; (1-1-07)T

b. State Hospital North, Orofino, Idaho; and (1-1-07)T

c. State Hospital South, Blackfoot, Idaho. (1-1-07)T

04. Emergency Medical Services (EMS) Employees. EMS communication specialists and managers. (1-1-07)T

05. Other Employees. Other Department employees as determined by the Director. (1-1-07)T

102. -- 119. (RESERVED).

120. APPLICATION FOR A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals who are subject to a criminal history and background check must complete an application and have it notarized. The application must include disclosure of any disqualifying crimes, offenses, or relevant records. (1-1-07)T

01. Application Form. The applicant must request a criminal history and background check by completing the Department's application form and submitting it on-line or by mail. The individual's application authorizes the Department to obtain information and release it as required in accordance with applicable state and federal law. The following information is required to complete the application: (1-1-07)T

a. Name, current and former names, or aliases; (1-1-07)T

b. Address; (1-1-07)T

c. Date of birth, that appears on a valid identification document issued by a governmental entity, (1-1-07)T

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- d. State and country of birth; and (1-1-07)T
- e. Driver's license number, if licensed, state where licensed, and whether a license has ever been revoked or suspended. (1-1-07)T
- f. Other identifying information, including gender, race, height, weight, eye color, and hair color; (1-1-07)T
- g. Employer information; (1-1-07)T
- h. Any criminal record or criminal offense information; (1-1-07)T
- i. Any pending charges or outstanding warrants; (1-1-07)T
- j. Any child or adult protection involvement; (1-1-07)T
- k. Any Medicare or Medicaid Provider Exclusion; and (1-1-07)T
- l. Any other information requested on the application. (1-1-07)T

02. Disclosures. The individual must disclose any conviction, pending charges or indictment for crimes, and furnish a description of the crime and the particulars on the application. The individual must also disclose any notice by a state or local agency of substantiated child or substantiated vulnerable adult abuse, neglect, exploitation, or abandonment complaint, and any other information as required. (1-1-07)T

03. Failure to Disclose Information. An applicant who falsifies or fails to disclose information on the application, may be subject to a conditional denial under Section 230.01 and prosecution under Sections 18-3203, 18-5401, and 56-227A, Idaho Code. (1-1-07)T

121. -- 129. (RESERVED).

130. SUBMISSION OF APPLICATION.

An application must be submitted and received by the Department before a criminal history and background check can be initiated. Once the Department has received the notarized application and signed fingerprint card, the application is pending until the Department issues a clearance or denial, or the individual withdraws the application. An application must be submitted and received by the Department within twenty-one (21) days of it being completed and notarized.

(1-1-07)T

01. Submitting an Application On-Line. An application may be submitted through the Criminal History Unit's website at <https://chu.dhw.idaho.gov>. Individuals who submit their application through the website may schedule a fingerprinting appointment at a Department location. At the fingerprinting appointment, the Department will print the application and notarize the individual's signature. (1-1-07)T

02. Submitting an Application by Mail. An individual may complete the application provided on the Department's website, print the application, have it notarized, and mail it to the

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Criminal History Unit with the signed fingerprint card and applicable fee. The application must be mailed to the nearest fingerprint location as found on the Department's website or contact the Criminal History Unit as described in Section 005 of these rules. (1-1-07)T

131. -- 139. (RESERVED).

140. SUBMISSION OF FINGERPRINTS.

The Department's criminal history and background check is a fingerprint-based check. Ten (10) rolled fingerprints must be collected from the individual and submitted to the Department within the time frame for submitting applications as provided in Section 150 of these rules in order for a criminal history and background check request to be processed. (1-1-07)T

01. Department Fingerprinting Locations. A fingerprint appointment may be scheduled at designated Department locations where the Department will collect the individual's fingerprints. The locations are listed on the Department's website, or you may contact the Criminal History Unit as described in Section 005 of these rules. (1-1-07)T

02. Submitting Fingerprints by Mail. An individual may elect to have fingerprints collected by a local law enforcement agency or by the applicant's employer. The fingerprint card must be signed and mailed with the completed notarized application and applicable fee to the nearest fingerprinting location. (1-1-07)T

141. -- 149. (RESERVED).

150. TIME FRAME FOR SUBMITTING APPLICATION AND FINGERPRINTS.

The completed notarized application and fingerprints must be submitted and received by the Department within twenty-one (21) days. The applicant is not available to provide services or be licensed or certified when the notarized application is not received or the fingerprints have not been rolled for an on-line application within this time frame. The criminal history and background check is incomplete and will not be processed by the Department if this time frame is not met. (1-1-07)T

151. -- 159. (RESERVED).

160. WITHDRAWAL OF APPLICATION.

An individual may withdraw his application for a criminal history and background check at any time. An individual who withdraws his application cannot provide services, or receive licensure or certification. Fees paid for the cost of the criminal history and background check are non-refundable once the fingerprints have been submitted by the Department to the Idaho State Police. (1-1-07)T

161. -- 169. (RESERVED).

170. AVAILABILITY TO PROVIDE SERVICES PENDING COMPLETION OF THE CRIMINAL HISTORY AND BACKGROUND CHECK.

An individual is available to provide services pending completion of the criminal history and background check as described in Subsections 170.01 and 170.02 of this rule. The application and fingerprinting must be completed in the time frame described in Section 150 of these rules.

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(1-1-07)T

01. Employees of Providers, Contractors or the Department. An individual is available to provide services on a provisional basis at the discretion of the employer as long as no disqualifying crimes or relevant records are disclosed on the application. The employer must review the application for any disqualifying crimes listed in Section 210 of these rules or other relevant records listed in Section 230 of these rules. The employer then determines whether the applicant poses a health or safety risk to vulnerable clients before allowing the individual to provide services until a clearance or denial is issued by the Department. (1-1-07)T

02. Individuals Licensed or Certified by the Department. Individuals applying for licensure or certification by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is complete and a clearance is issued by the Department. The following are individuals required to have a clearance prior to providing services: (1-1-07)T

- a. Adoption or foster care applicants and adults in the home; (1-1-07)T
- b. Certification or licensure applicants; (1-1-07)T
 - i. Certified family homes; (1-1-07)T
 - ii. Emergency Medical Services applicants and employees; (1-1-07)T
 - iii. Licensed child care providers; (1-1-07)T

171. -- 179. (RESERVED).

180. CRIMINAL HISTORY AND BACKGROUND CHECK RESULTS.

The Department will issue a clearance or denial once the criminal history and background check is completed. The results may be accessed by the individual on the Department's website. The employer may access the information that is provided by the applicant and information obtained from the state, county, or through registries. (1-1-07)T

181. APPLICATION STATUS.

An individual and his employer may check on the criminal history and background check status and the individual's availability to work on the Department website: <https://chu.dhw.idaho.gov>. (1-1-07)T

182. -- 189. (RESERVED).

190. CRIMINAL HISTORY AND BACKGROUND CHECK CLEARANCE.

A criminal history and background check clearance is issued by the Department once all relevant records and findings have been reviewed and the Department has cleared the applicant. The clearance will be published on the Department's website and the individual or his employer may print copies of the clearance. (1-1-07)T

191. -- 199. (RESERVED).

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DEPARTMENT OF HEALTH AND WELFARE
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200. UNCONDITIONAL DENIAL.

The Department will issue an unconditional denial within fourteen (14) days of the completion of a criminal history and background check. An individual who receives an unconditional denial is not available to provide services or to be licensed or certified by the Department. (1-1-07)T

01. Reasons for an Unconditional Denial Issuance. Unconditional denials are issued for disqualifying crimes described in Section 210 of these rules. (1-1-07)T

02. Final Order. An unconditional denial is a final order under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," Section 152. No exemption review is allowed for an unconditional denial. (1-1-07)T

03. Unconditional Denial Appeal. An appeal of an unconditional denial must be filed in District Court. (1-1-07)T

201. -- 209. (RESERVED).**210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.**

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a conviction for a disqualifying crime on his record as described in Subsections 210.01 and 210.02 of this rule. (1-1-07)T

01. Disqualifying Crimes. The disqualifying crimes described in Subsections 210.01.a through 210.01.v. of these rules will result in an unconditional denial being issued. (1-1-07)T

a. Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; (1-1-07)T

b. Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; (1-1-07)T

c. Crimes against nature, as defined in Section 18-6605, Idaho Code; (1-1-07)T

d. Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; (1-1-07)T

e. Incest, as defined in Section 18-6602, Idaho Code; (1-1-07)T

f. Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; (1-1-07)T

g. Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; (1-1-07)T

h. Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; (1-1-07)T

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- i. Mayhem, as defined in Section 18-5001, Idaho Code; (1-1-07)T
 - j. Murder in any degree, voluntary manslaughter, assault, or battery with intent to commit a serious felony, as defined in Sections 18-4001, 18-4003, 18-4006, and 18-4015, Idaho Code; (1-1-07)T
 - k. Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; (1-1-07)T
 - l. Possession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code; (1-1-07)T
 - m. Rape, as defined in Section 18-6101, Idaho Code; (1-1-07)T
 - n. Robbery, as defined in Section 18-6501, Idaho Code; (1-1-07)T
 - o. Felony stalking, as defined in Section 18-7905, Idaho Code; (1-1-07)T
 - p. Sale or barter of a child, as defined in Section 18-1511, Idaho Code; (1-1-07)T
 - q. Sexual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho Code; (1-1-07)T
 - r. Video voyeurism, as defined in Section 18-6609, Idaho Code; (1-1-07)T
 - s. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; (1-1-07)T
 - t. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; (1-1-07)T
 - u. Any felony punishable by death or life imprisonment; or (1-1-07)T
 - v. Attempt, conspiracy, or accessory after the fact, as defined in Sections 18-205, 18-306, and 18-1701, Idaho Code, to commit any of the disqualifying designated crimes. (1-1-07)T
- 02. Disqualifying Five-Year Crimes.** The Department will issue an unconditional denial for an individual who has been convicted of the following crimes for five (5) years from the date of the conviction for the crimes listed in Subsections 210.02.a. through 210.02.l. of this rule: (1-1-07)T
- a. Aggravated assault, as defined in Section 18-905, Idaho Code; (1-1-07)T
 - b. Aggravated battery, as defined in Section 18-907(1), Idaho Code; (1-1-07)T
 - c. Arson in the third degree, as defined in Section 18-804, Idaho Code; (1-1-07)T
 - d. Burglary, as defined in Section 18-1401, Idaho Code; (1-1-07)T

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- e. A felony involving a controlled substance; (1-1-07)T
 - f. Felony theft, as defined in Section 18-2403, Idaho Code; (1-1-07)T
 - g. Forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 and 18-3124, Idaho Code; (1-1-07)T
 - h. Forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; (1-1-07)T
 - i. Grand theft, as defined in Section 18-2407(1), Idaho Code; (1-1-07)T
 - j. Insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; (1-1-07)T
 - k. Public assistance fraud, as defined in Sections 56-227 and 56-227A, Idaho Code; (1-1-07)T
- or
- l. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, and 18-1701, Idaho Code, to commit any of the disqualifying five (5) year crimes. (1-1-07)T

211. -- 219. (RESERVED).**220. CONDITIONAL DENIAL.**

The Department may issue a conditional denial within fourteen (14) days of the completion of a criminal history and background check. An individual who receives a conditional denial is not available to provide services or be licensed or certified by the Department. (1-1-07)T

01. Reasons for a Conditional Denial Issuance. A conditional denial is issued when the criminal history and background check reveals a relevant record as described in Section 230 of these rules. (1-1-07)T

02. Effective Date of a Conditional Denial. A conditional denial is effective immediately. An applicant may not reapply for a criminal history and background check for three (3) years from the date of the conditional denial. (1-1-07)T

03. Request an Exemption Review. An individual may request an exemption review as described in Section 250 of these rules when a conditional denial has been issued. (1-1-07)T

221. -- 229. (RESERVED).**230. RELEVANT RECORDS RESULTING IN A CONDITIONAL DENIAL.**

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a relevant record on his record as described Subsections 230.01 and 230.02 of this rule. (1-1-07)T

01. Individuals Licensed or Certified by the Department or a Department Employee. A conditional denial may be issued when an individual who is licensed or certified by

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the Department, or who is a Department employee discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.01.a. through 230.01.f. of this rule: (1-1-07)T

a. A plea, finding, or adjudication of guilt to any felony or misdemeanor, or any crime other than a traffic violation, that does not result in a suspension of the individual's driver's license; (1-1-07)T

b. A substantiated child protection complaint or a substantiated adult protection complaint; (1-1-07)T

c. The Department determines there is a potential health and safety risk to vulnerable adults or children; (1-1-07)T

d. The individual has falsified or omitted information on the application form; (1-1-07)T

e. The individual is listed with a finding on the Nurse Aide Registry; or (1-1-07)T

f. The Department determines additional information is required. (1-1-07)T

02. Employees of Providers or Contractors. A conditional denial may be issued when an individual who is employed by a provider or contractor discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.02.a. through 230.01.c. of this rule. (1-1-07)T

a. A substantiated child protection complaint or a substantiated adult protection complaint; (1-1-07)T

b. The individual is listed with a finding on the Nurse Aide Registry; or (1-1-07)T

c. The Department determines additional information is required. (1-1-07)T

240. MEDICAID EXCLUSION.

Individuals subject to these rules, who are excluded by the Office of Inspector General, cannot provide Department funded services within the scope of these rules. At the expiration of the exclusion, the individual may reapply for a criminal history and background check. (1-1-07)T

241. -- 249. (RESERVED).

250. EXEMPTION REVIEWS.

An individual cannot request an exemption review for an unconditional denial. An individual may request an exemption review within fourteen (14) days from the date of the issuance of a conditional denial by the Department, unless good cause is shown for a delay. Once the Department receives the request for an exemption review, the Department will initiate a review for crimes or actions not designated in Section 210 of these rules. The review may consist of examining documents and supplemental information provided by the individual, a telephone interview, an in-person interview, or any other review the Department determines is necessary.

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Exemption reviews are governed and conducted as provided in Subsections 250.01 through 250.05 of this rule. (1-1-07)T

01. Scheduling an Exemption Review. Upon receipt of a request for an exemption review, the Department will determine the type of review and conduct the review within thirty (30) days from the date of the request. Where an in-person review is appropriate, the Department will provide the individual at least seven (7) days notice of the review date unless the time is waived by the individual. When an in-person review is scheduled, the individual is notified by the Department that he is able to bring witnesses and present evidence during the review.

(1-1-07)T

02. Factors Considered at the Exemption Review. The Department will consider the following factors or evidence during the exemption review:

(1-1-07)T

- a. The severity or nature of the crime or other findings; (1-1-07)T
- b. The period of time since the incident under review occurred; (1-1-07)T
- c. The number and pattern of incidents; (1-1-07)T
- d. Circumstances surrounding the incident that would help determine the risk of repetition; (1-1-07)T
- e. Relationship of the incident to the care of children or vulnerable adults; (1-1-07)T
- f. Activities since the incident, such as continuous employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of rehabilitation; (1-1-07)T
- g. Granting of a pardon by the Governor or the President; and (1-1-07)T
- h. The falsification or omission of information on the application form and other supplemental forms submitted. (1-1-07)T

03. Exemption Review Determination. The Department determines the individual's suitability based upon the information provided during the exemption review. The Department will issue a notice of decision within fifteen (15) business days of the close of the review.

(1-1-07)T

04. Exemption Review Decision Effective Dates. The Department's exemption review decision is effective for three (3) years from the date of the notice of decision. (1-1-07)T

05. Exemption Review Appeal. Exemption reviews conducted under this section of rule may be appealed under IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings." The filing of a notice of appeal does not stay the action of the Department. The individual who files an appeal must establish that the Department's denial was arbitrary and capricious.

(1-1-07)T

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251. -- 259. (RESERVED).

260. PREVIOUS EXEMPTION REVIEW DENIALS.

The individual's current request for a criminal history and background check for any Department program when there has been a denial from an exemption review within the last three (3) years will automatically be denied. (1-1-07)T

261. -- 269. (RESERVED).

270. CRIMINAL ACTION PENDING.

When the applicant is identified as having a pending criminal action for a crime that may disqualify him from receiving a clearance for the criminal history and background check, the Department may issue a notice of inability to proceed. The applicant is not available to provide service when a notice of inability to proceed is issued by the Department. The applicant can submit documentation that the matter has been resolved to the Department for reconsideration. When the Department receives this documentation, the Department will notify the applicant of the reconsideration and issue a clearance or denial. (1-1-07)T

271. -- 299. (RESERVED).

300. UPDATING CRIMINAL HISTORY AND BACKGROUND CHECKS.

The employer is responsible for confirming that the applicant has completed a criminal history and background check. (1-1-07)T

01. New Criminal History and Background Check. Any individual required to have a criminal history and background check under these rules must complete a new application, including fingerprints when: (1-1-07)T

- a.** Accepting employment with a new employer; or (1-1-07)T
- b.** Applying for licensure or certification with the Department; and (1-1-07)T
- c.** His last Department criminal history and background check was completed more than three (3) years prior to his employment date or licensure application date. (1-1-07)T

02. Use of Criminal History Check Within Three Years of Completion. Any employer may use a Department criminal history and background check clearance obtained under these rules if: (1-1-07)T

- a.** The individual has received a Department's criminal history and background check clearance within three (3) years from the date of employment; and (1-1-07)T
- b.** The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal identification, and no disqualifying crimes are found. (1-1-07)T

03. Employer Discretion. The new employer, at its discretion, may require an

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individual to complete a Department criminal history and background check at any time, even if the individual has received a criminal history and background check clearance within three (3) years. (1-1-07)T

04. Department Discretion. The Department may, at its discretion or as provided in program rules, require a criminal history and background check of any individual covered under these rules at any time during the individual's employment, internship, or while volunteering. Any individual required to complete a criminal history and background check under Sections 100 and 101 of these rules, must be fingerprinted within fourteen (14) days from the date of notification by the Department that a new criminal history and background check is required. (1-1-07)T

301. -- 349. (RESERVED).

350. CRIMINAL HISTORY AND BACKGROUND CHECK RECORDS.

Criminal history and background checks done under this chapter become the property of the Department and are held confidential. (1-1-07)T

01. Release of Criminal History and Background Check Records. A copy of the criminal history and background check as defined in Section 010 of these rules will be released: (1-1-07)T

a. To the individual who has requested the criminal history and background check and upon receipt of a written request to the Department, provided the individual releases the state from all liability; (1-1-07)T

b. In response to a subpoena issued by a court of competent jurisdiction; or (1-1-07)T

c. As otherwise required by law. (1-1-07)T

02. Retention of Records. (1-1-07)T

a. If an exemption is granted, the criminal history and background record, supplemental documentation received, notes from the review, and the decision will be retained by the Department for a period of at least five (5) years after the criminal history and background check is completed. (1-1-07)T

b. If an exemption is denied, the Department retains all records and electronic recordings pertaining to the review for five (5) years after the criminal history and background check is completed. (1-1-07)T

03. Use and Dissemination Restrictions for FBI Criminal Identification Records. According to the provisions under 28 CFR 50.12, the Department will: (1-1-07)T

a. Notify the individual fingerprinted that the fingerprints will be used to check the criminal history records of the FBI; (1-1-07)T

b. In determining the suitability for licensing or employment, provide the individual the opportunity to complete or challenge the accuracy of the information contained in the FBI

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identification record; (1-1-07)T

c. Notify the individual that he has fifteen (15) days to correct or complete the FBI identification record or to decline to do so; and (1-1-07)T

d. Advise the individual who wishes to correct the FBI identification record that procedures for changing, correcting, or updating are provided in 28 CFR 16.34. (1-1-07)T

351. -- 999. (RESERVED).

HEALTH AND WELFARE

IDAPA 22 - STATE BOARD OF MEDICINE

22.01.05 - RULES GOVERNING THE LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPY ASSISTANTS

DOCKET NO. 22-0105-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 13, 2006.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted temporary and proposed rulemaking procedures. The action is authorized pursuant to Title 54, Chapter 18, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Pursuant to Section 67-5226(1)(b), Idaho Code, the rule is repealed to comply with 2006 amendments to Title 54, Chapter 22, Idaho Code. House Bill 619 transfers rulemaking authority for Physical Therapists and Physical Therapy Assistants to the Department of Self-Regulating Agencies, Bureau of Occupational Licenses, Board of Physical Therapy.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (b) Idaho Code, to comply with amendments to governing law the rule is repealed. House Bill 619 transfers rulemaking authority for Physical Therapists and Physical Therapy Assistants to the Department of Self-Regulating Agencies, Bureau of Occupational Licenses, Board of Physical Therapy.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because repeal was required due to a change in statute.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 27, 2006.

DATED this 13th day of October, 2006.

HEALTH AND WELFARE

STATE BOARD OF MEDICINE
Licensure of Physical Therapists & Assistants

Docket No. 22-0105-0601
TEMPORARY RULE

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Boise, Idaho
PO Box 83720, Boise, Idaho 83720-0058
Phone: (208) 327-7000
Fax: (208) 327-7005

IDAPA 22.10.05 IS BEING REPEALED IN ITS ENTIRETY.

HEALTH AND WELFARE

IDAPA 22 - STATE BOARD OF MEDICINE

22.01.06 - RULES FOR EMS PERSONNEL

DOCKET NO. 22-0106-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 13, 2006.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted temporary and proposed rulemaking procedures. The action is authorized pursuant to Title 54, Chapter 18, Idaho Code, and amended Section(s) 56-1017, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Pursuant to Section 67-5226(1)(b), Idaho Code, the rule is repealed to comply with amendments to governing law. Senate Bill 1342 transfers rulemaking authority for EMS personnel to the Department of Health and Welfare, Emergency Services Physician Commission.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b) Idaho Code, to comply with amendments to governing law the rule is repealed. Senate Bill 1342 transferred rule making authority for EMS personnel to the Department of Health and Welfare, Emergency Medical Services Physician Commission.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because repeal was required due to a change in statute.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 27, 2006.

DATED this 13th day of October, 2006.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine

HEALTH AND WELFARE

STATE BOARD OF MEDICINE
Rules for EMS Personnel

Docket No. 22-0106-0601
TEMPORARY RULE

1755 Westgate Drive, Boise, Idaho
PO Box 83720
Boise, Idaho 83720-0058
Phone: (208) 327-7000
Fax: (208) 327-7005

IDAPA 22.01.06 IS BEING REPEALED IN ITS ENTIRETY.

HEALTH AND WELFARE

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.13.01 - RULES OF THE PHYSICAL THERAPY LICENSURE BOARD

DOCKET NO. 24-1301-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 9, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-2206, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: These rules are being allowed as per Title 54, Chapter 22. To designate the examinations approved by the Board and to establish the passing scores of those examinations and include the examination as a requirement for licensure.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) a and b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Title 54, Chapter 22 was amended and signed into law in 2006 bringing this board under the Bureau. These rules were not included in the previous rule promulgation and are provided in Title 54, Chapter 22, Idaho Code.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein; N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes are being done to comply with Title 54, Chapter 51.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

HEALTH AND WELFARE

BUREAU OF OCCUPATIONAL LICENSES
Rules of the Physical Therapy Licensure Board

Docket No. 24-1301-0701
TEMPORARY RULE

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 24, 2007.

DATED this 9th day of November, 2006.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233
(208)334-3945 fax

THE FOLLOWING IS THE TEST OF THE TEMPORARY RULE

010. DEFINITIONS (RULE 10).

- 01. Board.** The Physical Therapy Licensure Board. (7-1-06)T
- 02. Bureau.** Bureau means the Idaho Bureau of Occupational Licenses as created in section 67-2602, Idaho Code. (7-1-06)T
- 03. Physical Therapist.** An individual who meets all the requirements of Title 54, Chapter 22, Idaho Code, holds an active license and who engages in the practice of physical therapy. (7-1-06)T
- 04. Physical Therapist Assistant.** An individual who meets the requirements of Title 54, Chapter 22, Idaho Code, holds an active license, and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist. (7-1-06)T
- 05. Supportive Personnel.** An individual, or individuals, who are neither a physical therapist or a physical therapist assistant, but who are employed by and/or trained under the direction of a licensed physical therapist to perform designated non-treatment patient related tasks and routine physical therapy tasks. (7-1-06)T
- 06. Non-Treatment Patient Related Tasks.** Actions and procedures related to patient care that do not involve direct patient treatment or direct personal supervision, but do require a level of supervision not less than general supervision, including, but not limited to: treatment area preparation and clean-up, equipment set-up, heat and cold pack preparation, preparation of a patient for treatment by a physical therapist or physical therapist assistant, transportation of patients to and from treatment, and assistance to a physical therapist or physical therapist assistant when such assistance is requested by a physical therapist or physical therapist assistant when

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safety and effective treatment would so require. (7-1-06)T

07. Routine Physical Therapy Tasks. Actions and procedures within the scope of practice of physical therapy, which do not require the special skills or training of a physical therapist or physical therapist assistant, rendered directly to a patient by supportive personnel at the request of and under the direct personal supervision of a physical therapist or physical therapist assistant. (7-1-06)T

08. Testing. (7-1-06)T

a. Standard methods and techniques used in the practice of physical therapy to gather data about individuals including: (7-1-06)T

- i. Electrodiagnostic and electrophysiological measurements; (7-1-06)T
- ii. Assessment or evaluation of muscle strength, force, endurance and tone; (7-1-06)T
- iii. Reflexes; (7-1-06)T
- iv. Automatic reactions; (7-1-06)T
- v. Posture and body mechanics; (7-1-06)T
- vi. Movement skill and accuracy; (7-1-06)T
- vii. Joint range of motion and stability; (7-1-06)T
- viii. Sensation; (7-1-06)T
- ix. Perception; (7-1-06)T
- x. Peripheral nerve function integrity; (7-1-06)T
- xi. Locomotor skills; (7-1-06)T
- xii. Fit, function and comfort of prosthetic, orthotic, and other assistive devices; (7-1-06)T
- xiii. Limb volume, symmetry, length and circumference; (7-1-06)T
- xiv. Clinical evaluation of cardiac and respiratory status to include adequacy of pulses, noninvasive assessment of peripheral circulation, thoracic excursion, vital capacity, and breathing patterns; (7-1-06)T
- xv. Vital signs such as pulse, respiratory rate, and blood pressure; (7-1-06)T
- xvi. Activities of daily living; and the physical environment of the home and work place; and (7-1-06)T

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- xvii. Pain patterns, localization and modifying factors; and (7-1-06)T
- xviii. Photosensitivity. (7-1-06)T
- b.** Specifically excluded are the ordering of electromyographic study, electrocardiography, thermography, invasive vascular study, selective injection tests, or complex cardiac or respiratory function studies without consultation and direction of a physician. (7-1-06)T
- 09. Functional Mobility Training.** Includes gait training, locomotion training, and posture training. (7-1-06)T
- 10. Manual Therapy.** Skilled hand movements to mobilize or manipulate soft tissues and joints for the purpose of: (7-1-06)T
- a.** Modulating pain, increasing range of motion, reducing or eliminating soft tissue swelling, inflammation or restriction; (7-1-06)T
- b.** Inducing relaxation; (7-1-06)T
- c.** Improving contractile and non-contractile tissue extensibility; and (7-1-06)T
- d.** Improving pulmonary function. (7-1-06)T
- 11. Physical Agents or Modalities.** Thermal, acoustic, radiant, mechanical, or electrical energy used to produce physiologic changes in tissues. (7-1-06)T
- 12. General Supervision.** A physical therapist's availability at least by means of telecommunications, which does not require a physical therapist to be on the premises where physical therapy is being provided, for the direction of a physical therapist assistant. (7-1-06)T
- 13. Direct Supervision.** A physical therapist's or physical therapist assistant's physical presence and availability to render direction in person and on the premises where physical therapy is being provided. (7-1-06)T
- 14. Direct Personal Supervision.** A physical therapist's or physical therapist assistant's direct and continuous physical presence and availability to render direction, in person and on the premises where physical therapy is being provided. The physical therapist or physical therapist assistant must have direct contact with the patient during each session and assess patient response to delegated treatment. (7-1-06)T
- 15. Supervising Physical Therapist.** A licensed physical therapist who developed and recorded the initial plan of care and/or who has maintained regular treatment sessions with a patient. Such physical therapist's designation of another licensed physical therapist if the physical therapist who developed and recorded the initial plan of care or maintained regular treatment sessions is not available to provide direction at least by means of telecommunications. (7-1-06)T

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16. Nationally Accredited School. A school or course of physical therapy or physical therapist assistant with a curriculum approved by: (7-1-06)T

a. The American Physical Therapy Association (APTA) from 1926 to 1936; or the APTA Accreditation Commission; or (7-1-06)T

b. The Council on Medical Education and Hospitals of the American Medical Association from 1936 to 1960; or (7-1-06)T

c. An Accrediting agency recognized by the U.S. Commissioner of Education, the Council on Postsecondary Accreditation, or both. (7-1-06)T

17. Examination. The examination shall be the National Physical Therapy Examination (NPTE) administered by Federation of State Boards of Physical Therapy. The examination may also include a jurisprudence examination adopted by the Board. (11-9-06)T

(BREAK IN CONTINUITY OF SECTIONS)

151. -- ~~199~~74. (RESERVED).

175. REQUIREMENTS FOR LICENSURE (RULE 175).

An individual shall be entitled to a license upon meeting the following requirements: (11-9-06)T

01. Application. Submission of a complete application establishing that the individual has met the qualifications as set forth in these rules. (11-9-06)T

02. Examination. Submission of proof that the individual has successfully passed the NPTE with a scaled score of at least six hundred (600) and the jurisprudence examination with a score of at least seventy-five percent (75%). (11-9-06)T

176. -- 199. (RESERVED).

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IDAPA 27 - IDAHO STATE BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0601

NOTICE OF RULEMAKING - TEMPORARY RULE

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 16, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 16, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rulemaking provides a mechanism for the initiation of a Remote Dispensing Pilot Program that will allow for the dispensing of prescriptions through remote dispensing machines.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(2)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The proposed rulemaking is necessary to protect the public health, safety, and welfare, and to confer a benefit by providing pharmaceutical care through the use of telecommunications and remote dispensing machines to patients at a distance from the pharmacy and pharmacist providing the pharmaceutical care.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the experimental nature of the Remote Dispensing Pilot Program.

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ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact R. K. “Mick” Markuson, Director, (208) 334-2356.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 23, 2006.

DATED this 16th day of June 2006.

R. K. “Mick” Markuson, Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise ID 83720-0067
Phone: (208) 334-2356; Fax: (208) 334-3536

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

010. DEFINITIONS.

01. Board. Idaho Board of Pharmacy. (6-16-06)T

042. Pharmacist Extern. Any person enrolled in an approved college of pharmacy who has not received his first professional degree in pharmacy, and who is obtaining experience under the supervision of a pharmacist preceptor. (6-30-95)

023. Pharmacist Intern. Any person who has successfully completed a course of study at an accredited college or school of pharmacy and received the first professional degree in pharmacy, and who is obtaining practical experience under the supervision of a pharmacist preceptor. (6-30-95)

034. Preceptor. A licensed pharmacist in good standing engaged in the practice of pharmacy at a registered training site and directly responsible in supervising the training of a pharmacist extern or intern. The preceptor shall be responsible for: (6-30-95)

a. Personally providing the extern or intern with training experience which in his judgment will increase the extern or intern’s proficiency; and (6-30-95)

b. Reporting to the Board upon request, the progress of any pharmacy extern or intern under his supervision; and (6-30-95)

c. Certifying the extern or intern’s experience affidavits when the extern or intern leaves his supervision. (6-30-95)

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045. Ratios. A ratio of one (1) pharmacist preceptor to one (1) extern or intern will be required for dispensing functions. (6-30-95)

(BREAK IN CONTINUITY OF SUBSECTIONS)

265. REMOTE DISPENSING PILOT PROJECT.

The Board, through its Executive Director, may authorize specific pharmacies and the pharmacists practicing therein to participate in a Remote Dispensing Pilot Program. The following rules shall apply to pharmacies so authorized by the Board for conducting pharmacy through a Remote Dispensing Program. The purpose of the Remote Dispensing Pilot Program is to allow the provision of pharmaceutical care through the use of telecommunications and Remote Dispensing Machines (RDM) to patients at a distance from the pharmacy and pharmacist providing the pharmaceutical care. During the pilot project phase of the Remote Dispensing Pilot Program, designation to participate in the Remote Dispensing Pilot Program shall be at the discretion of the Board and the Executive Director. (6-16-06)T

~~2656. —290.~~ (RESERVED).

267. REMOTE PHARMACY REGISTRATION - OPERATING MEMORANDUM.

01. Registration. During the pilot project phase of the Remote Dispensing Pilot Project, each Remote Pharmacy shall be registered with the Board as a Pilot Remote Pharmacy. Pilot Remote Pharmacies will only be approved for operating in medical care facilities operating in areas otherwise unable to obtain pharmaceutical care on a timely basis. RDMs must be used only in settings with an established program of pharmaceutical care that ensures prescription orders are reviewed by a pharmacist before release to the patient. The Responsible Pharmacy must establish the policies and procedures necessary to fulfill the requirements of all applicable state and federal laws, rules, and regulations. (6-16-06)T

02. Operating Memorandum. Prior to issuance of a registration for a Pilot Remote Pharmacy, the Responsible Pharmacy, acting through its Pharmacist in Charge, and the Board, acting through its Executive Director, shall enter into an operating memorandum which shall contain: (6-16-06)T

a. The operating protocols applicable to the Pilot Remote Pharmacy and which shall include written policies and procedures that: (6-16-06)T

i. Ensure safety, accuracy, security, and patient confidentiality; (6-16-06)T

ii. Define access to the RDM and to medications contained within or associated with the RDM, including but not limited to policies that assign, discontinue, or change access to the RDM and medications; and (6-16-06)T

iii. Ensure that access to the medications complies with state and federal laws and

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regulations. (6-16-06)T

b. A complete description of the RDM including the operating specifications therefore. (6-16-06)T

c. An accurate scale drawing of the facility where the Automated Pharmacy System, including its RDM, will be located showing the layout of the location of the RDM, the facilities for the operating pharmacy technician operating the system, the location of a patient counseling area, all access points to the system and the RDM. (6-16-06)T

d. A description of the training required for personnel who will access the Automated Pharmacy System (including the RDM) to ensure the competence and ability of all personnel who operate any component of the Automated Pharmacy System and a requirement that adequate documentation of training and continuing education be kept both in the Responsible Pharmacy and at the Pilot Remote Pharmacy, readily available for inspection by the Board. (6-16-06)T

e. A description of the procedures for ensuring that the RDM is in good working order and accurately dispenses the correct strength, dosage form, and quantity of the drug prescribed while maintaining appropriate record-keeping and security safeguards. (6-16-06)T

f. An ongoing quality assurance program that monitors performance of the Automated Pharmacy System, including the RDM, and the personnel who access it. (6-16-06)T

g. Such other terms and conditions of operations as the Executive Director deems are reasonably necessary to ensure the health, safety, and welfare of the public with respect to the operations of the Pilot Remote Pharmacy. (6-16-06)T

03. Pilot Remote Pharmacy Operations. The Operating Memorandum shall govern (in conjunction with all applicable laws, rules, and regulations) the operations of the Pilot Remote Pharmacy with respect to all aspects of the practice of pharmacy at the Pilot Remote Pharmacy. The Operating Memorandum may identify specific rules of the Board which are not applicable to the operation of the Pilot Remote Pharmacy or for which particular applications are modified due to the specific nature of the operations at the Pilot Remote Pharmacy, provided however, the Operating Agreement may not waive or modify application of Federal laws or regulations, or state statutes governing the practice of pharmacy. (6-16-06)T

04. Dispute Resolution. In the event of a dispute between the Pharmacist in Charge and the Executive Director with respect to specific terms or conditions of the Operating Memorandum, either may petition the Board for a determination, which determination by the Board shall be final. The Operating Memorandum may be amended by agreement between the Responsible Pharmacist and the Executive Director. Any such amendment shall be in writing and shall be appended to the original Operating Memorandum. In addition, the Operating Agreement may be amended by order of the Board upon the petition of either the Responsible Pharmacist or the Executive Director to the Board, or upon the Board's own motion. Any such Board order shall be appended to the original Operating Memorandum. (6-16-06)T

268. PHARMACIST IN CHARGE.

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01. Responsibilities. The Pharmacist in Charge shall be responsible for all aspects of the operation of the Pilot Remote Pharmacy including safety, accuracy, security, and patient confidentiality. (6-16-06)T

02. Product Supply. The Pharmacist in Charge shall ensure that the RDM is stocked accurately and in accordance with the established, written policies and procedures. A pharmacist must check the accuracy of the product supplied for stocking the machine. (6-16-06)T

269. DRUG DELIVERY AND CONTROL.

01. Licensed Pharmacist Present. At all times the Automated Pharmacy System is being operated, there shall be a pharmacist licensed in the state of Idaho, or a technician registered in the state of Idaho, present at the Pilot Remote Pharmacy and attending to such operations. (6-16-06)T

02. Communication. At all times the Automated Pharmacy System is being operated, there shall be a pharmacist licensed in the state of Idaho available at the Responsible Pharmacy for immediate communication through a two-way audio and video hookup between the Responsible Pharmacy and the Pilot Remote Pharmacy. (6-16-06)T

03. Electronic Recording. All events involving the contents of the RDM must be recorded electronically. Records must be maintained by the Responsible Pharmacy for a minimum of three (3) years and must be readily available to the Board. Such records are in addition to any records required under other statutes, regulations, or rules, and shall be available for inspection by the Board in the same fashion as other required pharmacy records, and shall include: (6-16-06)T

- a.** Identity of RDM accessed; (6-16-06)T
- b.** Identification of the individual accessing the RDM; (6-16-06)T
- c.** Type of transaction; (6-16-06)T
- d.** Date and time of transaction; (6-16-06)T
- e.** Name, strength, dosage form, and quantity of the drug accessed; (6-16-06)T
- f.** Name of the patient for whom the drug was ordered; (6-16-06)T
- g.** Name of the prescribing practitioner; and (6-16-06)T
- h.** Such additional information as the Pharmacist in Charge may deem necessary. (6-16-06)T

04. Access to RDM. Only an Idaho licensed pharmacist may have access to the RDM. (6-16-06)T

05. Stocking Medications. Only an Idaho licensed pharmacist may stock medications

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in the RDM. (6-16-06)T

06. Packaging and Labeling. All containers of medications stored in the RDM shall be packaged and labeled in accordance with state and federal laws, rules, and regulations. (6-16-06)T

07. Handling Controlled Substances. All aspects of handling controlled substances shall meet the requirements of all state and federal laws, rules, and regulations. (6-16-06)T

08. Counseling. Oral counseling shall be provided by a pharmacist licensed in Idaho at the time of dispensing by a two-way audio and video hookup between the Responsible Pharmacy and the Pilot Remote Pharmacy. (6-16-06)T

09. Wasted, Discarded, or Unused Medications. The Automated Pharmacy Systems shall provide a mechanism for securing and accounting for wasted, discarded, or unused medications in accordance with existing state and federal laws, rules, and regulations. (6-16-06)T

10. RDM Identification. The RDM must be clearly marked with the name, address, and phone number of the Responsible Pharmacy and Pharmacist in Charge. (6-16-06)T

270. -- 290. (RESERVED).